

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION**

In Re: COOK MEDICAL, INC.,
IVC FILTERS MARKETING, SALES
PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

Case No. 1:14-ml-2570-RLY-TAB
MDL No. 2570

This Document Relates to:

All Plaintiffs Listed in Exhibits A, B & C

**THIRD AMENDED ORDER ON JOINT NOTICE REGARDING AMOUNT IN
CONTROVERSY CERTIFICATION**

On October 4, 2024, the Cook Defendants and the Plaintiffs' Steering Committee filed a Joint Notice listing Plaintiffs who have not submitted Amount in Controversy Certification Forms ("Joint Notice"). (*See* Filing No. 26083, Joint Notice; *see also* Filing No. 25716, Sixth Amended Case Management Order No. 4 ("CMO-4") ¶ 3; Filing No. 25741, Amended Case Management Order No. 32 ("CMO-32")). Each of these Plaintiffs categorized his or her only injury as Category 6 (Non-Symptomatic Injury), Category 7(e) (Symptomatic Penetration or Perforation), or as both Category 6 and Category 7(e) (the "Subject Categories").¹ (*See* Filing No. 25741, CMO-32 ¶ 1). These Plaintiffs were therefore required to certify that the amount in controversy in their respective cases exceeds the jurisdictional threshold of \$75,000, exclusive of interest and costs, a

¹ Per CMO-32, injuries categorized in Category 1 or Category 2 are ignored for purposes of determining whether the Plaintiff must submit an Amount in Controversy Certification Form. (*See* Filing No. 25741 ¶ 1 n.1).

requirement for this Court to exercise subject-matter jurisdiction over their actions. (*See* 28 U.S.C. § 1332(a)).

The deadline for these Plaintiffs to submit Amount in Controversy Certification Forms expired on August 26, 2024.² (*See* Filing No. 25741, CMO-32 ¶ 1). Plaintiffs listed in Exhibits A and B have failed to submit Amount in Controversy Certification Forms since the filing of the Joint Notice on October 4, 2024.³ (*See* Filing No. 26083, Joint Notice). Their cases are therefore subject to dismissal. However, because Plaintiffs listed in Exhibit B also failed to submit Second Amended Case Categorization Forms as this Court has required, (*see* Filing No. 26084, Cook's Notice of Noncompliance: Second Amended Case Categorization Forms (CMO-33)), the Court will dismiss those cases for failure to submit new categorization forms by separate order. The Joint Notice is therefore **MOOT** as to those Plaintiffs listed in **Exhibit B**. Cook may seek dismissal of those Plaintiffs' cases for failure to comply with CMO-32 at a later date, if necessary.

Plaintiffs listed in **Exhibit C** have cured their deficiencies and/or have been identified as falling within the scope of the Court's Order Extending Time for Certain Plaintiffs to Comply with Amended CMO-32 and Amended CMO-33. (*See* Filing No. 25896). The Joint Notice is therefore **MOOT** as to those Plaintiffs listed in **Exhibit C**.

² Plaintiffs subject to the Joint Notice are represented by law firms who have appeared in less than 250 cases pending in the MDL and therefore are not within the scope of the Court's Order Extending Time for Certain Plaintiffs to Comply with Amended CMO-32 and Amended CMO-33. (*See* Filing No. 25896).

³ **Exhibits A and B** include Plaintiffs with whom Cook agreed to provide extensions of time to submit Amount in Controversy Certification Forms but who nevertheless failed to cure their deficiencies by the agreed upon extended deadline.


Based on the foregoing, **IT IS HEREBY ORDERED:**

1. The cases identified in **Exhibit A** are **DISMISSED WITHOUT PREJUDICE** pursuant to Federal Rule of Civil Procedure 41 for failure to prosecute.

2. The Joint Notice is **MOOT** as to the cases identified in **Exhibits B** and **C**. Cook may seek dismissal of the cases listed in Exhibit B based on CMO-32 at a later date, if necessary.

All parties shall bear their own fees and costs.

SO ORDERED this 18th day of December 2024.


RICHARD L. YOUNG, JUDGE
United States District Court
Southern District of Indiana

Distributed Electronically to All Registered Counsel of Record via cm/ECF.